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SUBJECT: SCENESETTER FOR THE VISIT OF CODEL FALEOMAVAEGA TO CAMBODIA

SENSITIVE BUT UNCLASSIFIED

¶1. (SBU) Embassy Phnom Penh warmly welcomes CODEL Faleomavaega's visit to Cambodia. Yours is the first Congressional visit since Senator Jim Webb's in mid-August, and you will find a Cambodia seeking to take full advantage of its first real period of stability in more than a generation. Although the tempo has quickened in the conduct of U.S.-Cambodian bilateral relations, exemplifying a broader and growing USG interest in Cambodia and the region, the pace is likely to slow somewhat since Cambodia deported 20 Uighur asylum-seekers on December 19 under strong Chinese pressure and in contravention of its international obligations and long-standing cooperation with the UN High Commissioner for Refugees (UNHCR). Nonetheless, there have been positive developments in several areas: peaceful national elections in July 2008; active Cambodian participation in the Global Peace Operations Initiative (GPOI); and continued cooperation to combat trafficking in persons. Cambodia remains a solid partner on counterterrorism and POW/MIA matters. Thirty years after the Khmer Rouge atrocities, a mixed international-domestic tribunal just concluded the trial of the first of several cases to wide acclaim both in Cambodia and internationally for the justice that has long been denied the victims of those atrocities. Our military-to-military relationship continues to strengthen: ship visits and medical readiness and engineering exercises are being utilized to improve cooperation in civil-military operations. Our bilateral trade relationship continues to grow with a rapidly expanding U.S. commercial presence, including Microsoft, DuPont, GE, and others, though bilateral debt remains a continuing sticking point in economic relations. While our development work still faces significant challenges, we are seeing a new level of engagement on the part of the Royal Government of Cambodia (RGC) in health (HIV/AIDS and avian influenza), education, and environmental issues. Even so, problems remain: Cambodia is one of the world's poorest countries, and economic growth decreased considerably in 2009 as Cambodia lost over 12 % of its U.S. garments market share; weak rule of law, corruption, and weak institutions continue to hamper Cambodia's development; incidents of land disputes and forced evictions, sometimes accompanied by violence, continue to be a high-profile concern; and a spate of defamation and disinformation lawsuits are constricting political space.

¶2. (SBU) Potential topics for discussion during your visit are strong cooperation in counterterrorism, counternarcotics, and anti-trafficking in persons which are also reflected in renewed U.S.-ASEAN efforts such as the Lower Mekong Initiative. In the regional context, you may wish to discuss the need for harmonious Cambodian-Thai relations and the

peaceful settlement of the Preah Vihear border dispute. Your visit may afford the opportunity to raise concerns highlighted in Washington about the recent deportation of the Uighurs and the constriction of political space. The U.S. will soon consider providing future assistance to the Khmer Rouge Tribunal with the recent resolution by the UN and RGC of an anti-corruption mechanism for the court; the CODEL will hear Cambodian reactions to the KRT as it visits sites commemorating the Khmer Rouge genocide. Your visit is also an opportunity to evaluate the issue of the bilateral debt and to hear Cambodian perspectives on the proposed TRADE Act in Congress, which provides duty free access for garments to those qualifying nations with good labor practices.

Domestic Political Stability

¶3. (SBU) The domestic political situation remains stable. According to an International Republican Institute public opinion poll in August, 79 percent of the population believes that the country is headed in the right direction, compared to 77 percent in early 2008. The improving infrastructure -- roads, bridges, schools, clinics -- is the main reason for this outlook. Corruption, high prices, and poverty top concerns cited by those worried about the country's direction and other poll data show a desire for more security from crime and improved transportation and health care systems. Cambodia's 2008 national elections were peaceful and allowed the Cambodian people to express their preferences in an open and fair manner. Despite these improvements, the elections fell short of international standards on several counts,

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including equitable access to media. U.S. foreign assistance aims to encourage expanded political participation by youth and women in elections and political processes and also to emphasize greater transparency and accountability by the government.

Expanding Military Relations

¶4. (SBU) As demonstrated by the September meeting between Secretary Gates and Minister of Defense Tea Banh and the annual Bilateral Defense Dialogue, U.S.-Cambodian security cooperation is expanding at a sustained rate. As our military-to-military relationship matures beyond the traditional and still-active areas of MIA recovery and demining, we are looking to focus on areas such as defense reform and professionalization, regional cooperation and international peacekeeping, border and maritime security, counterterrorism, and civil-military operations. Ship visits, medical readiness exercises and engineering capabilities exercises are all being utilized to improve cooperation in civil-military operations within Cambodia, and we expect the USNS Mercy to arrive in June for a ten-day visit. Through security cooperation we are helping to develop centralized logistics and transportation functions within the Armed Forces, a central coordinating authority for maritime security and building capacity to secure Cambodia's maritime domain, a credible peacekeeping and counterterrorism capacity, and greater regional and multilateral cooperation. Members of the PACOM Augmentation Team provide counsel and training to the Royal Cambodian Armed Forces in its continued effort to build a credible counterterrorism unit.

Cambodia as an International Actor: Global Deployments and the Khmer Rouge Tribunal

¶5. (SBU) With renewed confidence borne of stability, Cambodia has begun looking outward and seeks a more visible role in international and regional affairs consistent with the country's limited resources and capacity. Cambodia is an active participant in the Global Peace Operations Initiative (GPOI) and participated in its second Capstone exercise in

Indonesia in June. The GPOI program has assisted Cambodia in increasing peacekeeping operations (PKO) capacity to support continued UN PKO rotations to Sudan, where Cambodia has deployed demining companies since 2006. Cambodia will host the GPOI Capstone exercise in 2010 -- an extraordinary undertaking for such a nascent peacekeeping force -- and is preparing to expand its PKO deployments to Chad and the Central African Republic early in the new year.

¶6. (SBU) Cambodia has engaged the international community in its pursuit of justice for the Khmer Rouge genocide. Although the establishment of the Extraordinary Chambers in the Courts of Cambodia (ECCC) took seven years to negotiate with the UN, the Khmer Rouge Tribunal (KRT) has since arrested and detained five Khmer Rouge leaders and charged them with some 25 separate crimes, including crimes against humanity, war crimes and genocide. The just-completed hearing for Kaing Guek Eav, known as Duch, former head of the Tuol Sleng torture center, is the most tangible step to date in the hybrid tribunal's efforts to try those individuals most responsible for the 1.7 million people killed under the brutal Khmer Rouge regime. Successful trials in the KRT have the potential to strengthen rule of law and judicial independence in Cambodia and address questions of impunity and accountability for the crimes of the Khmer Rouge regime. Past allegations of mismanagement and corruption within the Cambodian court administration had threatened its integrity, but the appointment of an Independent Counselor function in August was deemed by donors as a key step toward a credible watchdog and preventative mechanism; no additional allegations have surfaced for nearly two years. In addition, judicial proceedings are going well and there are no allegations linking corruption to any of the judges. The court will require more financial support; the Secretary has concurred that the KRT is capable of providing justice at an international standard, and we believe that implementation of an Independent Counselor function provides the KRT with a credible anti-corruption mechanism, paving the way for additional USG contributions in FY2010 and beyond.

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Cambodian Economy Hard Hit by the Global Economic Crisis

¶7. (SBU) Cambodia's heady days of double digit economic growth are over. The adverse impacts of the global economic crisis have brought Cambodia's growth to a screeching halt, from 10.2 percent in 2007 to low single digits, if not the World Bank's estimated negative 1 percent in 2009. Nearly all of the pillars of Cambodia's economy - garments, tourism, and construction - have been adversely affected; only the agriculture sector has thus far been unaffected. The economic crisis poses significant challenges to sustaining the country's progress toward its development goals and meeting the needs of the country's most vulnerable affected by the crisis. To date the government's efforts to mitigate the adverse impacts have failed to address the fundamental challenges of sustaining economic growth and a more comprehensive, coordinated response is urgently needed to prevent greater numbers of the population from falling into poverty. The garment industry represents roughly 30 percent of the country's overall GDP. The U.S. market for Cambodian textile exports is still a crucial part of Cambodia's economy, representing over 70 percent of the country's exports in this key sector and the U.S. is Cambodia's chief trading partner. However, Cambodia's garment market share in the U.S. reportedly dropped from 3.2 percent to 2.8 percent in the past year, more than a 12 percent decline. The Cambodian government, garment industry, and unions are strong supporters of proposed legislation by Senator Feinstein that would allow duty-free access for garments from Cambodia and other less developed countries. Chevron is involved in Cambodia's offshore oil/gas exploration efforts, with 2012 foreseen as the earliest possible date for exploitation of these resources. While American investors have been slower

than their Asian counterparts to seize Cambodia's business opportunities, the U.S. commercial presence is rapidly expanding with a multi-million dollar investment by U.S. manufacturer Crown Holdings and the establishment of representative offices by GE, DuPont, Microsoft, and Otis Elevators.

Bilateral Debt

18. (SBU) Cambodia's bilateral debt to the U.S. totals USD162 million, but with arrears factored in could reach over USD360 million. The debt stems from shipments of agricultural commodities, such as rice and wheat flour, financed with low-interest-rate loans by the U.S. Department of Agriculture to the Lon Nol regime in the early 1970s. Interest accumulated over three decades, following the country's fall to the Khmer Rouge. In 1995, Cambodia and Paris Club creditors (including the U.S.) agreed to a debt restructuring package, and Cambodia signed bilateral agreements with and began repaying most creditors. Bilateral negotiations with the U.S. stalled over the amount of debt owed, until 2006 when an agreement in principle was reached on the exact amount of principal owed.

19. (SBU) Since then, the RGC has been reluctant to sign a bilateral repayment agreement. This is partly due to the fact that, while the RGC accepts responsibility for debts incurred by former governments, there are domestic political obstacles to the debt of a regime that deposed King Sihanouk. The RGC is seeking concessions beyond the terms of the 1995 Paris Club accords and wants to link repayment directly to a debt-swap program similar to debt-for-assistance measures enacted for Vietnam to make a repayment agreement more palatable to Cambodians and the members of the National Assembly. In 2007 key Senate Foreign Relations Committee and House Foreign Relations Committee staffers expressed interest in a debt-for-aid mechanism to support education or other programs. Other staffers have suggested eliminating the debt entirely. Cambodia has been given the final best offer on debt rescheduling that the USG is able to make under the Paris Club principles and existing legal and budgetary rules, and Cambodia's economic and financial situation does not merit debt reduction. The USG continues to urge the RGC to accept the already concessional interest rate of 3 percent and sign the repayment agreement first, arguing that Congress might view more favorably a debt-swap or other agreement if Cambodia is already making payments and in good financial standing with the U.S. However, the RGC still seeks to link

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directly the signing of a repayment agreement with a guarantee of a debt recycling program.

Human Rights: Political Space, Treatment of Asylum Seekers

110. (SBU) The RGC allowed significantly greater freedom to the political opposition during the 2008 election than in previous elections, and had shown some willingness to engage on civil liberties and human rights issues. However, Cambodia's overall human rights record remains poor. Prime Minister Hun Sen and the Cambodian People's Party continue to dominate all three branches of the government as well as other national institutions. Cambodia's leaders recently revived a tactic last seen in 2005 to use Cambodia's weak and easily-influenced judiciary to pursue legal cases against critics and the political opposition. Defamation, disinformation, and incitement cases against members of the political opposition, journalists, and private citizens brought through the mid-year was a worrying trend, and one that eroded some of the recent gains for political space in Cambodia. Land disputes and forced evictions, sometimes accompanied by violence, continue to be a high-profile problem. When an opposition publicity stunt spotlighted non-transparent border demarcation with Vietnam --

potentially disenfranchising farmers of tens of thousands of hectares of farm land -- the courts were again employed and some human rights observers are concerned charges will be exaggerated to punish the opposition for a minor infraction that challenged the ruling party's credibility. U.S. foreign assistance aims to reduce corruption, improve political rights and selected civil liberties, and improve the justice system in support of these aims by supporting reform-minded institutions and individuals; engaging civil society as a voice for reform; and building capacity of public and private institutions.

¶11. (SBU) Perhaps the most significant event on Cambodia's political stage since the 2008 election was the Prime Minister's decision to deport 20 Uighur asylum seekers back to China on December 19, just a day before the arrival of the Chinese Vice President and the signing of \$1.2 billion in bilateral assistance and loan agreements. All 20 had "Person of Concern" letters jointly administered by the UNHCR and a recently-established RGC Refugee Office. In the days leading up to the deportation on immigration grounds, all Cambodian interlocutors signaled that the RGC would honor its international commitments as a party to the 1951 UN Convention on Refugees and the 1967 protocol, and vet the asylum seekers through a credible process for refugee determination, which had indeed been its practice in previous sensitive refugee matters, such as the Vietnamese Montagnards. But at the eleventh hour, the RGC abruptly changed course amid persistent pressure by China in advance of its high-level visit. The UNHCR and many in the international community branded the deportation a "serious breach of international refugee law." When high-level telephone representations opposing the deportation went unheeded, the U.S. expressed its displeasure with the involuntary return of these asylum seekers and, in a statement issued on December 21, noted that the incident would affect Cambodia's relationship with the United States and its international standing.

Progress on Trafficking in Persons Hits a Snag

¶12. (SBU) In past years, Cambodia made significant progress in combating trafficking in persons as reflected in their movement from Tier 3 in 2005 to Tier 2 in 2008. A new law on Suppression of Human Trafficking and Commercial Sexual Exploitation came into effect in February 2008 and the RGC launched a nationwide campaign to persuade Cambodians to take action against human trafficking. Despite this progress, Cambodia was downgraded to Tier Two Watch List in 2009. Cambodia's anti-trafficking efforts remain hampered by corruption at all levels of government and an ineffectual judicial system. An initial increase in police crackdowns on brothels, credited by some to the passage of the new law, may have resulted in many prostitutes selling sex on the streets, increasing their vulnerability to violence and HIV infection. New guidelines implemented by DPM Sar Kheng and increased training for police officers have improved this situation,

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though police in some areas continue to target prostitutes for arrest. As a result of the confusion over the law, there was a decrease in arrests (approximately 30-40%) and convictions of traffickers during last year's TIP Report rating period (April 2008-March 2009). Some of this is attributable to a lack of training. Although its commitment is significant, Cambodia is far from solving its own TIP problems, including overcoming widespread corruption and challenges arising in implementing the 2008 anti-TIP law. Observers are hopeful that a new National Committee to combat TIP launched in November and stronger central review of ongoing prosecutions, will turn the tide in the battle against trafficking.

Corruption Remains Endemic

¶13. (SBU) The RGC has failed to finalize and pass much-needed anti-corruption legislation, though that appears likely to change soon. While a solid Anti-Terrorism Law, Money Laundering Law, and Criminal Procedures Code moved at a brisk pace to passage, other key pieces of legislation have only recently made headway. The massive, revised Penal Code just passed the Senate and a third of the law has been promulgated. The remainder of the Penal Code will be enacted by the end of 2010. Hun Sen lived up to his public promise that a December 11 Council of Ministers would approve the Anti-Corruption Law. The draft law is now with the National Assembly and may well be passed in the first part of 2010. In 2008, Transparency International ranked Cambodia 166 out of 180 countries in its corruption perceptions index; Burma was the only country in Asia ranked lower than Cambodia. There has been continued and widespread land-grabbing by government officials and the politically well-connected. Uprooted communities from outside Phnom Penh seek government redress by traveling to the city to draw media and public attention to their plight. Cambodia's competitiveness ranking (109 out of 134 in 2008) is also one of the lowest in the world, again due largely to perceived systemic corruption. Rather than embrace the reforms that would garner increased investment and the new jobs that would be created, the RGC appears to be banking on the future income from its as-yet-untapped oil and gas reserves, which should come on stream by 2012 at the earliest. The current corrupt political environment flows into the top-heavy and anachronistic military as well, providing another challenge to developing our mil-to-mil relationship.

¶14. (SBU) Given where Cambodia was a decade ago, it has come a long way. Given where Cambodia needs to be, it still has much to do to establish transparency, accountability, and general good governance. The United States is perceived as a trusted partner in these efforts but, at the same time, our efforts are not always successful and the allure and largesse of China continues to increase. Although Cambodia's tragic history should be no excuse for not resolving its current problems, that history does largely set the parameters for how far and how fast Cambodia can evolve into the kind of nation and society we all hope it will someday become. Continual U.S. engagement at all levels and in all fields will remain crucial for effecting these needed changes. Your visit is a welcome addition to the range of our engagement efforts and the Embassy stands ready to help make the visit a success.
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